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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,047	11/09/2001	Michael J. Whalen	032167.0001	1649

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EXAMINER

BREVARD, MAERENA W

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,047

Applicant(s)

WHALEN ET AL.

Examiner

Maerena W. Brevard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 9, 12-15 and 18 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 10, 11, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION

Claim Objections

1. Claim 8 is objected to because of the following informalities: in line 2, "wherein the" should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-3, 5, 12, 13, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Butschat.

Butschat discloses a device (10) for carrying paint and a paint roller comprising:

- A first storage compartment (30) capable of accepting a paint roller and paint;
- A first clip means (40, 42a, 42b);
- A means (20) for attaching the device to a painter;
- The first clip means acts to retain the paint roller such that the paint roller is not submerged in the paint (Figure 5);
- The attachment means attaches the device to a belt (12);

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- A support element (24) for maintaining the device in an upright position (Column 3, lines 47-50); and
- The first storage compartment is made of a non-porous, durable, lightweight material consisting of plastic (Column 8, line 8).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 8, 9, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaques in view of Butschat.

Jaques discloses a device (10) for carrying paint and a paint roller comprising a first storage compartment (20) capable of accepting a paint roller and a means (40) for attaching the device to a painter, but does not teach a first clip means for retaining the paint roller at a specified location within the first storage compartment. However, Butschat teaches a device for carrying paint and a paint roller having a first clip means (40, 42a, 42b). It would have been obvious to attach the clip of Butschat on the device of Jaques. Doing so would provide a means of frictionally retaining the handle of the roller within the device.

Regarding claims 8 and 9, Jaques discloses a second storage compartment (30) sized to accept a paintbrush (8, Figure 4).

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Regarding claims 12-15, the first and second compartments are made from a non-porous, durable, lightweight material consisting of plastic or a lightweight metal (Column 2, lines 42-45 and column 3, lines 2-4).

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jaques in view of Butschat as applied to claim 1 in paragraph 5 above, and further in view of Davidson. The modified device of Jaques teaches a carrier having an attachment means but does not teach the attachment means being a shoulder strap. However, Davidson teaches a carrier having a belt and shoulder strap (34) attachments. It would have been obvious to provide the shoulder strap to the modified carrier of Jaques. Doing so would provide additional securing means for the carrier.

Allowable Subject Matter

7. Claim 19 is allowed.

8. Claims 6, 7, 10, 11, 16, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jones, Daw, Davis et al., King, and Hardman are cited for paint carrier systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maerena W. Brevard whose telephone number is 703/305-0037. The examiner can normally be reached on M-Th; 8:00 AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703/308-2572. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703/872-9302 for regular communications and 703/746-4224 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-0037.



Maerena W. Brevard
Patent Examiner